



Atty. Dkt. No. 47998/197

THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: BRODEUR, *et al.*

Title: PROTEINASE K RESISTANT SURFACE
PROTEIN OF NEISSERIA
MENINGITIDIS

TECH CENTER 1600/2900

Appl. No.: 09/684,883

Filing Date: October 6, 2000

Examiner: A. Navarro

Art Unit: 1645

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**RESPONSE TO REQUIREMENT FOR
RESTRICTION/ELECTION**

Commissioner for Patents
Washington, D.C. 20231

Sir:

This communication is responsive to the Office Action dated July 30, 2002, concerning the above-referenced patent application. A response is due October 30, 2002, by virtue of the attached Petition for Extension of Time and fee.

Requirement for Election/Restriction

The Examiner alleges that the claims are drawn to distinct and independent inventions, as set forth in the Office Action mailed July 30, 2002. The current action is the same as the one issued on January 16, 2002, except that the examiner now has amended the description of Group V to include newly-added claims 170-173 and to note that "election of a single sequence is required." Applicants again elect with traverse Group V, claims 124-130, 133-137 and 170-173 for prosecution on the merits. In addition, applicants elect the species of SEQ ID NO:2.

RESPONSE TO REQUIREMENT FOR RESTRICTION/ELECTION

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Applicants traverse the requirement for restriction on the grounds that methods of making and using the claimed product should be rejoined upon indication of the allowability of the product claims. *See, generally, In re Ochiai*, 71 F.3d 1565 (Fed. Cir. 1995). Thus, the Examiner should rejoin Group VI, method claims 131 and 132, because these claims are directed to a method of making the product of claim 124. In addition, once the species of SEQ ID NO:2 has been found allowable, the examiner will be obliged to examine the other species, namely SEQ ID NOs:4, 6 and 8.

Applicants now await examination on the merits. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

By S. A. Best

Date October 16, 2002

FOLEY & LARDNER
Suite 500, 3000 K Street, N.W.
Washington, D.C. 20007-5109
(202) 672-5300

Stephen A. Bent

Stephen A. Bent
Registration No. 29,768